

(2012) 02 MAD CK 0344

In the Madras High Court

Case No : Writ Petition (MD) No. 9946 of 2007

D. Sitha Lakshmi

APPELLANT

Vs

The District Collector, Sivagangai District, Sivagangai

RESPONDENT

Date of Decision : 01-02-2012

Acts Referred:

Citation : (2012) 02 MAD CK 0344

Hon'ble Judges : K. Ravichandra Baabu, J

Bench : Single Bench

Advocate : S. Visvalingam, for the Appellant; R. Karthikeyan, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

Honourable Mr. Justice K. Ravichandra Baabu

1. The writ petition has been filed by the petitioner challenging the order passed by the respondent dated 27.11.2006 and consequently, seeking for a direction to absorb the petitioner in any one of the vacancies according to the petitioner's qualification. This writ petition came to be filed before this Court under the following facts and circumstances:

(i) The petitioner's father one R. Durai Raj was serving as Jeep Driver at the office of the Thasildar, Ilayndudi Taluk, Sivagangai District. He died on 26.05.1992, while in service, due to heart attack. He left his wife and three children, namely, two daughters and one son as his legal-heirs. The family was not able to survive with the family pension granted to the wife of the deceased. At the time of death, the petitioner, being the eldest, was aged about 7 years and other two children, were aged 5 and 3 years respectively. The petitioner's mother Parimala Gandhi applied before the respondent on 20.12.1993 seeking for an appointment to the petitioner in any post on compassionate ground. To the said request made by the petitioner's mother, the Revenue Tashildar of Ilayankudi Taluk through his proceeding, dated 31.03.1994, informed that she

was not having the requisite educational qualification and the children of the deceased were also 9, 7 and 5 years old respectively and as such, there was no possibility for making any compassionate appointment. However, the said official advised her that an application can be made after her children acquire the requisite educational qualification. Again on 03.05.1999, the petitioner's mother applied before the Tashildar, Ilayankudi, once again requesting for a compassionate appointment to the petitioner. The petitioner had also made a request through her application, to the respondent herein and through proceedings, dated 06.11.2000, the respondent directed the petitioner to furnish certain documents. It is stated that all those documents sought for by the respondent were furnished immediately. Again by proceedings, dated 12.07.2002, the respondent called upon the petitioner to furnish the certificate of Typewriting in the Senior Grade. In the said proceedings the respondent stated that if no such certificate is produced, it would be considered that the petitioner was not qualified for the appointment as Typist and consequently, the same will be given to the other persons in the seniority list. It is stated that the petitioner had produced the said certificate as required by the respondent. Thereafter, by a proceedings, dated, 05.09.2003, the respondent informed that no action could be taken on the proposal for compassionate appointments except to register the applications according to the seniority, based on a communication received from the Commissioner of Revenue Administration. Therefore, the petitioner's application was only registered and kept in the seniority list.

(ii) It is further stated by the petitioner that the respondent again through his proceedings, dated 31.10.2003, informed the petitioner that the Government had imposed ban on appointment under G.O. Ms. No. 212, dated 29.11.2001, and only when the ban is lifted the request of the petitioner for compassionate appointment based on the seniority will be considered. The respondent again through proceedings, dated 01.06.2005, called upon the petitioner to furnish certain documents which were also immediately furnished by the petitioner. Further by a proceeding, dated 07.10.2005, the petitioner was once again called upon to furnish some more documents, which, according to the petitioner, were also furnished immediately. When all the required documents as required by the respondent were furnished by the petitioner in time, the impugned order came to be passed on 27.11.2006, in respect of several persons out of which petitioner was shown as serial No. 13, thereby the respondent had rejected the request of the petitioner for the compassionate appointment on the sole ground that the application was not made within three years from the date of death of the Government Servant, namely, petitioner's father. Aggrieved against the said order passed by the respondent, the petitioner had come forward with the above writ petition.

2. Notice of motion was ordered in this writ petition on 29.11.2007. On notice, the respondent entered appearance and filed a counter affidavit.

3. In the counter affidavit, it is contended that the petitioner's mother S.

Parimala Gandhi applied for appointment on compassionate ground on 20.12.1993 and as the petitioner's mother was not eligible for such appointment the same was not entertained by the Tahsildar, Ilayangudi. It is further contended that the Tahsildar, Ilayangudi was not the competent authority to decide on the compassionate appointment and it is only the respondent who is empowered to decide the same. Because of the ban order issued by the Government, all the applications were kept pending including that of the petitioner under SL. No. 42 and the said fact was also duly informed to the petitioner. The respondent further contended that the appointment on compassionate grounds is only to overcome from the sudden loss of the head of the family and the same cannot be claimed as a matter of right, that too by presenting the application belatedly after a lapse of three years and as such the claim of the petitioner is not correct as per law and the petitioner's application was rightly rejected in similar to the rejection of the applications submitted by the other persons. The Government in their letter No. 202, Labour and Employment Department, dated 08.10.2007 has clarified that the 3 years limitation period holds good for all the past, present and future cases and therefore, the writ petitioner is not entitled to the relief.

4. I heard the learned Counsel appearing for the petitioner and the learned Additional Government Pleader appearing the respondent.

5. Learned Counsel appearing for the petitioner has submitted that the impugned order came to be passed by the respondent erroneously, as if the petitioner's application was made beyond the period of three years without taking note of the earlier application filed by the mother as early as on 20.12.1993 and subsequently on 03.05.1999 and also the petitioner's application filed before the respondent on 28.07.2000. It is also contended by the petitioner's Counsel that the respondent and his subordinates had called upon the petitioner on several occasions through proceedings, dated 06.11.2000, 12.07.2002, 01.06.2005 and 07.10.2005 to furnish the necessary documents for effecting the appointment and in spite of furnishing those documents, the respondent had chosen to pass the impugned order without applying the mind to the earlier proceedings. The learned Counsel appearing for the petitioner relied on the decision of this Court reported in 2011 (2) CWC 36 in the matter in V. Selvarani vs. The Chairman, Tamil Nadu Electricity Board, in support of his contention.

6. On the other hand, the learned Additional Government Pleader appearing for the respondent while reiterating the stand taken in the counter affidavit, has further submitted that the application itself came to be given by the petitioner only on 28.07.2000 i.e., after three years from the date of the death of the deceased and consequently, the application cannot be considered in view of G.O. Ms. No. 120, Labour and Employment Department, dated 26.06.1995. Moreover, the appointments on compassionate ground have to be made immediately and not after the lapse of several years as the intention of making such appointment loses its importance.

7. I have given careful consideration to the rival submissions made. The impugned order of the respondent, dated 27.11.2006, came to be passed solely on the reason that the application of the petitioner was not made within a period of three years from the date of the death of the Government Servant, namely, the father of the petitioner. The admitted facts are that (1) the petitioner father worked as Jeep Driver in the respondent's department; 2) he died on 26.05.1992; 3) the petitioner's mother made an application for compassionate appointment on 20.12.1993; 4) the Tashildar, Ilayankudi through his proceedings, dated 31.03.1994, advised the petitioner's mother to make application after the children acquired the requisite educational qualification, as they were minor at the time; 5) The petitioner's mother again applied on 03.05.1999 and the petitioner had also made similar application on 26.07.2000; 6) The respondent through his proceedings, dated 06.11.2000, 12.07.2002, 01.06.2005 and the Tashildar, Ilayankudi through his proceedings, dated 07.10.2005, called upon the petitioner to furnish certain documents for considering the case of the petitioner for compassionate appointment; 7) The ban imposed in G.O. Ms. No. 212, 28.11.2001 was also subsequently lifted by the Government during February 2006; 8) The impugned order does not say any other reason except that the application was made beyond a period of three years from the date of the death of the deceased employee.

8. From the above facts and circumstances, the issue to be decided in this case is as to whether the application made by the petitioner seeking compassionate appointment can be rejected on the ground that the same was not submitted within a period of three years from the date of the death of the deceased employee and whether the application submitted by the petitioner herein is to be treated as fresh application or an application in continuation of the application submitted by the mother of the petitioner.

9. Admittedly, the petitioner's mother made an application on 20.12.1993 within three years from the date of the death of the deceased. Apart from that the petitioner's mother made subsequent remainder application on 03.05.1999 followed by the petitioner's application, dated 28.07.2000. Therefore, it cannot be contended by the respondent that there was no application within three years from the date of the death of the deceased employee. When the mother of the petitioner made an application on 20.12.1993, the Tashildar, Ilayankudi through proceedings, dated 31.03.1994, advised the petitioner's mother to make the application after the minor children acquired the requisite educational qualification for the Government service and also found that the petitioner's mother was illiterate and therefore, she was not eligible to any post on compassionate appointment. In view of these admitted position, the application filed by the petitioner on 28.07.2000 has to be treated only as a continuation of the application of the mother on 20.12.1993 and not otherwise. At this juncture it is useful to refer the decision rendered in 2011(3) LLN 405 (Mad) in the case of J. Jeba Mary vs. The Chairman, Tamil Nadu Electricity Board, wherein the learned Judge has taken a similar view at the paragraph 9 and 10 as follows :-

9. The appointment of the petitioner's father in the Tamil Nadu Electricity Board and he died on 2.8.1991, while in service are not in dispute. The same is evident from the legal heirship certificate issued by the Tahsildar, Vilavancodu dated 16.9.1991 and 19.1.2005. The application submitted by the petitioner's mother and widow of the deceased TNEB employee on 31.7.1992 seeking compassionate appointment for the petitioner's brother is not in dispute. On 28.11.1992 the second respondent directed the petitioner's mother to produce the death certificate, legal heirship certificate and consent letter from other legal heirs. The translated version of the said letter reads as follows:

TAMIL NADU ELECTRICITY BOARD

From The Superintending Engineer, Tmt. K. Mariapushpam, Kanyakumari Power Distribution Circle, Semmuthal East, Nagercoil-1. Post (Via) Karungal, Kumari District.

To "Saralvilai House" Mullankinavilai

Letter No. NiBi2/Uthal/33796/92-1, dt.28.11.1992

Madam, Sub: Requesting for employment in Electricity Board on compassionate ground -reg. Ref: Your letter dated 31.7.92.

An application is annexed herewith in respect of the application sent by you requesting for employment of your son in Electricity Board on compassionate ground. It is requested to fill in the same without any mistake and to send to this office without any delay.

It is also requested to send along with the application, the copies of educational certificate, transfer certificate, conduct certificate of the applicant, death certificate of the deceased employees, legal heirship certificate, and consent letter from other heirs aged above 18 years, expressing no objection in giving the job to your son.

Sd/- xxxxxxxx for Superintending Engineer

Petitioner's mother also produced the said certificates on 9.12.1992 by registered post and the same was received by the third respondent on 15.12.1992 as per the postal acknowledgment card filed. On 2.8.1993 petitioner's mother gave an undertaking that no one in her family is employed in Government service or in private concern. The continuous sufferings of the petitioner and her family is also evidenced from the income certificate issued by the Tahsildar dated 15.3.2005, which states that the petitioner's mother is getting only a sum of Rs. 26,800/- per annum towards family pension and Rs. 700/- from other sources as yearly income. The Tahsildar also certified that no one in her family is employed in any Government or Private concern. Till date no order is passed by the respondents even though the petitioner's mother is fighting for her right to get appointment to any one of the legal heir from 31.7.1992.

10. In the above circumstances, the application submitted by the petitioner on 8.4.2005 has to be treated as an application submitted in continuation of petitioner's mother's application as the earlier application submitted by the petitioner's mother has not been considered or rejected till the application dated 8.4.2005 submitted by the petitioner. The impugned order nowhere states that the application submitted by the petitioner's mother was earlier rejected.

10. The said order of the learned Judge is also taken note of by the Hon'ble First Bench of this Court in its order dated 12.01.2012 in W.A. No. 2452 of 2011 in the matter of A. Vasanthi vs. The Senior Registrar of Cooperative Societies, Cuddalore and another. It is also the admitted position that the respondent himself called upon the petitioner on several occasions to furnish certain documents based on her application for compassionate appointment. When the petitioner has furnished all those documents, the respondent cannot now take a different stand and pass the impugned order by stating that the application itself came to be given after a period of three years from the date of death of the deceased. This stand of the respondent has to be rejected even on the other ground, namely, that the three years limitation period is applicable only where the date of death of the Government Servant was after 26.06.1995, in pursuant to the issuance of G.O. Ms. No. 120, Labour and Employment, dated 26.06.1995. A similar view was taken by the learned Single Judge of this Court in 2011(8) MLJ 457 in the case of B. Arunkumar Vs. State of Tamil Nadu and others as follows:-

8. Before issuance of G.O. Ms. No. 120, Labour and Employment Department dated 26.06.1995, there was no time limit for making application seeking compassionate appointment on the death of the Government Servant. Further, it is clarified by the Government, Labour and Employment department in their letter No. No. 39924/Q1/95, dated 11.10.2005 that the time limit of three years period specified in G.O. Ms. No. 120 would apply only in the cases of compassionate appointment for the death of the Government Servants, after 26.06.1995. The said letter is extracted hereunder in this regard:

In the Government Order 1st cited, the following modifications were issued to the existing scheme of appointments under compassionate grounds to the dependants of the deceased Government Servants, with effect from the date of issue of order:

- i) The applications for appointment on compassionate grounds should be made within three years of the death of Government Servants.
- ii) The maximum age limit for such appointment be raised to 50 years in the case of widows of the deceased Government Servants.

2. In this connection, the District Collector, Tirunelveli Kattabomman District has sought for clarifications whether the time limit of three years period specified in the Government Order are applicable to the dependants of the Government Servants who died prior to the date of issue of the Government Order. In this

connection, it is clarified that the time limit of three years period specified in the Government Order first cited is applicable only to the dependants of the Government Servants those who died while in service on or after 26.06.1995 and the above orders are not applicable to the past cases. Further the Government clarify, that the age limit of 50 years for appointment under the scheme in the case of widows as ordered in the said Government Order is also applicable only to the widows of the Government Servants those who died on or after 26.06.1995.

10. Therefore, I do not find any infirmity in appointing the petitioner on compassionate ground, when the application was made after 17 years from the death of the father of the petitioner, who was a Government Servant. Admittedly, the father of the petitioner died on 14.06.1979 and the mother of the petitioner made an application on 13.08.1996. At the time of death of his father, the petitioner was aged about 7 years. In view of the existing scheme providing compassionate appointment, the mother of the petitioner sought compassionate appointment to the petitioner and the same was also provided. Without taking into account the letter dated 11.10.1995, Labour and Employment Department, as well as the letter of the first respondent dated 14.11.1995, the impugned order was passed. Hence, I am of the view that the impugned order is liable to be quashed.

11. It is also to be seen that the petitioner herein was only 7 years old at the time of death of her father and she made her application on 28.07.2000 itself. Therefore, an application filed by the petitioner cannot be treated as belated one. In the decision relied on by the learned counsel for the petitioner reported in 2011(2) CWC 36 in the matter of V. Selvarani vs. The Chairman, Tamil Nadu Electricity Board, the learned Judge after elaborately considering various orders passed had come to the conclusion that the stand taken by the respondent was not correct. The relevant paragraphs are reproduced hereunder :

7.(a) Similar issue as to whether an application seeking compassionate appointment can be rejected on the ground that the application was not submitted within three years from the date of death of the deceased employee and whether completion of 18 years within three years, is a mandatory requirement when earlier application submitted by other claimant is kept pending, was considered by this Court in the decision reported in T. Meer Ismail Ali Vs. The Tamil Nadu Electricity Board and The Superintending Engineer, Tamil Nadu Electricity Board, . In the said case the deceased Board employee died on 13.4.1993 and the application submitted by one of his daughter on 5.8.1997 was rejected on the ground that she had not completed 18 years of age and after completing 18 years of age when an application was made on 4.7.2000 which was rejected on the ground that the application was not made within three years from the date when the Board Proceedings dated 13.10.1995 was issued. This Court considering the technical plea raised by the respondent Board set aside the said order and remitted the matter to pass fresh orders without reference to the

objections already raised by the Board. The said order of the learned single Judge was challenged by the TNEB in W.A. No. 4008 of 2004 before the First Bench of this Court (consisting of the Hon'ble Mr. Justice Markandey Katju, C.J. (as he then was) and N.V. Balasubramanian, J.) dismissed the writ appeal on 1.12.2004. The respondents herein filed SLP No. 6387 of 2005 against the said order which was also dismissed on 1.4.2005 by the Honourable Supreme Court and consequently the said writ petitioner was given compassionate appointment.

(b) Another writ petition in W.P. No. 41459 of 2005 was considered by me on the same set of facts. The said writ petition was allowed following the earlier order of the Division Bench of this Court made in W.A. No. 4008 of 2004 dated 1.12.2004 and the said decision is reported in *Selvi. R. Anbarasi Vs. The Chief Engineer (Personnel), Tamil Nadu Electricity Board and The Superintending Engineer, Tamil Nadu Electricity Board*. The said order was challenged by the TNEB before the First Bench in W.A. No. 988 of 2006. However, the said petitioner was given appointment on compassionate ground by implementing the order and therefore the writ appeal was dismissed as infructuous on 15.9.2006 by recording the statement made by the Standing Counsel for the TNEB.

(c) In W.P. No. 21512 of 2003 one Indiraniammal challenged the rejection of compassionate appointment on similar ground. The learned single Judge dismissed the writ petition by order dated 4.8.2003 against which the petitioner therein filed W.A. No. 3050 of 2003 and the said writ appeal was allowed by the Division Bench (consisting of the Hon'ble Mr. Justice P. Sathasivam (as he then was) & S.K. Krishnan, J) by order dated 8.3.2005 following the earlier judgments as well as the Supreme Court Judgment reported in *Balbir Kaur and Another Vs. Steel Authority of India Ltd. and Others*, Against the said decision Civil Appeal No. 2039 of 2006 was filed by the respondent Board herein which was dismissed by the Honourable Supreme Court on 30.3.2010.

(d) Dismissal of another W.P. No. 775 of 2004 by order dated 29.1.2005 on the ground of delay was considered by the Division Bench (F.M. Ibrahim Kalifullah, J. (as he then was) & P. Murugesan, J) in W.A(MD). No. 29 of 2006 and by order dated 27.6.2006 the Division Bench allowed the writ appeal and directed to give compassionate appointment to the younger son of the deceased Board employee, who died on 15.11.1996. The said order of the Division Bench was also challenged by the Board in SLP (C) No. 15534 of 2007 which was also dismissed by the Apex Court on 8.4.2009.

(e) Three writ petitions were disposed of by me i.e., *Nepplian v. The Chief Engineer (Personnel), TNEB*, W.P. Nos. 19914 of 2004, 32409 of 2004 and 10577 of 2005 by common order dated 24.7.2006 wherein similar issue was considered. In respect of the above three writ petitions, which were allowed, writ appeal was filed against one writ petition in W.A. No. 1206 of 2006 while implementing the order in respect of other two cases. The said writ appeal was allowed by the Division Bench on 29.9.2006. The respondent in the writ appeal viz., J. Karthick filed review application which was also rejected by the Division Bench on

25.8.2008. Against the dismissal of the writ appeal as well as rejection of review application, the said J. Karthick filed SLP(C) No. 2004-2005/2009 and on 23.2.2009 the SLPs were tagged along with Civil Appeal No. 2039 of 2006 viz., Indiraniammal case. Subsequently the said SLP was numbered as Civil Case Nos. 5068-5069 of 2009 which was allowed on 30.3.2010 and the said order reads as follows:

Leave granted.

Heard learned counsel for the parties.

These Appeals have been filed against the impugned judgment of the High Court of Madras dated 29th September, 2006 and subsequent order dated 25.8.2008 passed in the review application.

The Division Bench of the High Court has reversed the judgment of the learned single Judge only on the ground of delay who directed compassionate appointment to the appellant. The appellant was a minor at the time of the death of his father and since the mother of the appellant applied within time, we are of the opinion that the appellant after becoming major should have been granted compassionate appointment.

Accordingly, we allow these appeals, set aside the impugned judgment of the Division Bench and restore the judgment of the learned single Judge. No costs.

(Emphasis Supplied)

From the perusal of the above order it is evident that the order passed by the Division Bench in writ appeal and in the review petition were set aside and the order of the single Judge dated 29.9.2006 was restored.

(f) In W.P. No. 18575 of 2006 I had an occasion to consider similar issue and allowed the writ petition on 20.6.2006 by following earlier orders. The said order was also challenged by the respondent in W.A. No. 42 of 2007 and the Division Bench (D. Murugesan, J & K. Venkataraman, J) dismissed the writ appeal on 2.7.2009. The Board filed SLP (C) No. 8305 of 2010 which was also dismissed by the Honourable Supreme Court on 6.7.2010. The said candidate viz., P. Venkatesan was given compassionate appointment by order dated 18.8.2010.

(g) Again similar matter was considered by me in W.P. No. 29059 of 2003 and relief granted by order dated 7.7.2006, against which also the Board filed The Chief Engineer (Personnel), TNEB v. S. Sunder W.A. No. 1652 of 2006. The said writ appeal was dismissed by Division Bench (D. Murugesan, J. & S. Nagamuthu, J.) on 30.3.2009.

(h) W.P(MD). No. 1335 of 2006 was disposed of by me on 10.8.2006. The said order was also confirmed by the Division Bench (consisting of the Hon"ble Mr. Justice P.D. Dinakaran (as he then was) & P.R. Shivakumar, J.) in W.A. No. 309 of 2007 on 8.8.2007 and the same is reported in (2007) 6 MLJ 1011 Superintending Engineer, Madurai Electricity Distribution Circle v. V. Jaya and the

said candidate viz., V. Jaya was given appointment order.

(i) Similar matter was again considered by me in W.P. No. 4050 of 2006 and the said writ petition was allowed by order dated 29.6.2010 following the orders of the Division Bench and Supreme Court and the said judgment is reported in (2010) 7 MLJ 644 M. Uma vs. Chief Engineer (Personnel), TNEB, Chennai. No appeal is filed against the said order.

8. From the above referred decisions passed by this Court in series of cases on the same ground, it is evident that the similar grounds raised by the respondents that the petitioner has not filed application seeking compassionate appointment within three years from the date of death of her husband, is not a valid ground to deny appointment on compassionate ground as no one in her family is employed.

12. In another decision reported in 2011 (4) MLJ 438 in the matter of A. Musthfa Iqbal Basha vs. State of Tamil Nadu the learned Judge has considered the issue regarding grant of compassionate appointment as follows:

9. It is true, as contended by the learned Government Advocate, that the objective of providing compassionate appointment is to tide over the sudden indigent circumstances unexpectedly created by the sudden death of the Government Servant. As the petitioner was a minor at the time of the death of his father and at the same time his mother was also not eligible for appointment, he could not submit any application for compassionate appointment. Instead, he, immediately after attaining majority, submitted an application to the respondents. Just because there is a delay in submitting the application for the said reason by the petitioner for compassionate appointment, it cannot be said that the family of the deceased Government servant has gone to suffer the indigent circumstances. It is seen from the records that the two sisters of the petitioner are married and the brother is living separately. Now, the persons left out in the family are the petitioner and his mother, who are without any job and in every need of employment. In the given situation, it is very difficult for them to get two square meals a day. Therefore, I am of the considered opinion that the family of the deceased government servant can not be left in lurch.

13. The respondent in his counter affidavit relied on the Government Letter No. 202, Labour and Employment Department, dated 08.10.2007, to justify the rejection of the petitioner's claim. It appears that the Government has stated in the said letter dated 08.10.2007, that the three years limitation period would be applicable for all the past, present and future cases. I do not agree with this contention of the respondent. The G.O. Ms. No. 120, Labour and Employment Department, came to be issued on 26.06.1995. When the three years limitation period is not applicable in respect of cases where the death was prior to 26.06.1995, the Government cannot by way of such clarification in its letter, dated 08.10.2007, that too after a period of 12 years, take away the right of benefit accrued already on persons with retrospective effect. Therefore, this contention of the respondent is also rejected.

14. From the above discussion of facts and circumstances of the case and considering various decisions rendered by this Court as referred above, the issues involved in this case are answered as follows:

(1) The application of the petitioner seeking for compassionate appointment made cannot be rejected on the ground that the same was not submitted within a period of three years by applying G.O. Ms. No. 120, Labour and Employment Department, dated 26.06.1995, as the date of the death of the deceased employee was prior to the said G.O.

(2) The respondent is not entitled to clarify through the Government letter No. 202, Labour and Employment Department, dated 08.10.2007 that the three years limitation period would be applicable even in respect of cases where the date of death was prior to G.O. Ms. No. 120, Labour and Employment Department, dated 26.06.1995, as the benefit already accrued cannot be taken away by issuing such Government Letter and applying the same retrospectively.

(3) If an application for compassionate appointment is made by any member of the deceased family and when such application was not rejected on merits, subsequent application made by another member of the family has to be treated only as an application in continuation of the earlier application submitted by the other member of the family and not a fresh one to apply the limitation period.

15. In view of the above discussed facts and circumstances and also considering the views taken by this Court in the various decisions referred above, I hold that the reasoning assigned by the respondent in the impugned order is not correct and justifiable and consequently, the same is liable to be rejected. Accordingly, the impugned order is set aside insofar as the petitioner is concerned. Consequently, the writ petition is allowed with a direction to the respondent to consider the claim of the petitioner for compassionate appointment by passing a fresh order on her application dated 28.07.2000 by taking note of the earlier proceedings issued by the respondent on the petitioner and pass fresh orders within a period of four weeks from the date of receipt of a copy of this order. It is needless to say that the petitioner should satisfy the respondent with regard to the requisite qualification for the post to which the appointment is to be considered as well as continuance of the indigent circumstances of the family of the deceased making it eligible for a compassionate appointment even as on today. The writ petition is ordered accordingly. No costs.